

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD LEVY

Application No. 09/357,957

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on August 15, 2002. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On July 22, 2002, appellant filed a Reply Brief (Paper No. 16). The examiner responds to appellants' Reply Brief in a communication mailed on August 8, 2002 (Paper No. 19). According to MPEP § 1208.02:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer or supplemental examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02. A supplemental examiner's answer is not permitted unless the

Application No. 09/357,957

application has been remanded by the Board for such purpose [emphasis added].


A review of the application reveals that the examiner's response (Paper No. 11) does not comply with MPEP § 1208.03.

Accordingly, it is

ORDERED that the application is returned to the examiner for proper response to appellant's Reply Brief filed on July 22, 2002 (Paper No. 16), or to reopen prosecution, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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